IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal (Lodging) No. 1053 of 2005
In
Suit No. 2670 of 2005

Arvind Eknath Manda .. Appellant
V/s.
Jamilabi Abdul Latif Haju & Anr. .. Respondents

Mr. Bharat Joshi for the Appellant
Ms. Varsha Palav for the Respondents
Mr. M.H. Patel, Asst. Prothonotary, Representative of Court Receiver present.

CORAM : DR. S. RADHAKRISHNAN &
S.C. DHARMADHIKARI, JJ.
DATED : 14.10.2005.

P.C.:-

1. Heard the learned counsel for the Appellant and the Respondents. Appeal is admitted. The learned counsel for the Respondents waives service. By consent taken up for hearing.

2. By this Appeal, the Appellant is challenging the order dated 5.10.2005 passed by the learned Single Judge by way of an ad-interim order in the Suit filed under section 6 of the Specific Relief Act, wherein the learned Single Judge has appointed Court Receiver, High Court, Bombay and has directed to put up a partition in respect of an area of 5' X 6' and take possession of the said portion and seal the same.

3. We have perused the Plaint. The Plaint does not disclose the exact location of the said portion of 5'X 6' sq. ft, which is described as Shop No. 98.

3. Under these circumstances, the order dated 5.10.2005 can not be sustained as the Suit premises itself has not been clearly described and since the Suit premises is part of a room. Under these circumstances, the impugned order dated 5.10.2005 is set aside. Liberty is granted to both the Appellant and the Respondents to move the learned Single Judge for an expeditious hearing of the aforesaid Notice of Motion.

4. Both the Appellant and the Respondents agree that the above order shall stand substituted by the following order:-

> I. The Appellant is restrained from parting with the possession or creating any third party rights with regard to the Shop No. 98 at 6th Kumbhar Wada, Opp. Alankar Cinema, Trimbak Parshuram Street, Near to Tank, Mumbai 400 004.

5. Appeal stands disposed of accordingly.

(DR. S. RADHAKRISHNAN, J.)

(S.C. DHARMADHIKARI, J.)